

## Message Text

UNCLASSIFIED

PAGE 01 STATE 087578

11

ORIGIN EUR-04

INFO OCT-01 ISO-00 /005 R

66624

DRAFTED BY:EUR/RPE:MLEVINE

APPROVED BY:EUR/RPE:MLEVINE

----- 110768

R 292322Z APR 74

FM SECSTATE WASHDC

TO ALL OECD CAPITALS

UNCLAS STATE 087578

FOL OECD PARIS 09159 SENT ACTION SECSTATE APRIL 16, 1974  
REPEATED TO YOU QUOTE

UNCLAS OECD PARIS 09159

DEPT PASS TREAS FOR KORP

E.O.11652: N/A

TAGS: EFIN, OECD

SUBJECT: XCSS EXPERTS MEETING APRIL 29-30

REF: (A) CES/74.38, PRINCIPLE OF NATIONAL TREATMENT

(B) CES/74.39, INTERNATIONAL EFFECTS OF OFFICIAL  
INVESTMENT INCENTIVES AND DIS-  
INCENTIVES

(C) CES/74.40, CLARIFICATION OF TERM MULTINATIONAL  
ENTERPRISE

1. SUMMARY. SECRETARIAT DISTRIBUTED THREE DOCUMENTS  
(REFS A, B AND C) FOR XCSS INVESTMENT EXPERTS MEETING  
APRIL 29-30 ON FRIDAY, APRIL 12. MISSION SENT COPIES  
THAT DATE BY OPEN AIRMAIL TO TREASURY (KORP) AND BY  
POUCH TO STATE (RPE).TP END SUMMARY.

2. REF A ON NATIONAL TREATMENT (SIX PAGES) PROPOSES  
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 087578

GUIDELINE TO BE FOLLOWED BY MEMBERS AND OUTLINES SCOPE OF

GUIDELINE AND GENERAL EXCEPTIONS. COUNTRIES WOULD BE EXPECTED TO LODGE SPECIFIC RESERVATIONS AT TIME GUIDELINE ENTERS INTO FORCE. SECTION ON PROCEDURES INDICATES THAT A COMMITTEE (YET UNNAMED) WOULD ORGANIZE CONSULTATIONS TO APPRAISE THE APPLICATION OF THE GUIDELINE FROM TIME TO TIME, AND THAT MEMBERS WOULD ENGAGE IN CONSULTATIONS WITH OTHER MEMBERS ON PARTICULAR CASES OR GENERAL QUESTIONS CONCERNING APPLICATION OF THE GUIDELINE UPON REQUEST TO THE COMMITTEE. IT IS EXPECTED THAT REF A WILL HAVE TO BE CHECKED BY LEGAL EXPERTS AT A LATER STAGE AND THAT IT COULD BE SUBMITTED TO XCSS AT SOME MEETING AFTER APRIL, 1974. TEXT OF GUIDELINE IS: "A MEMBER SHALL, TO THE EXTENT NECESSARY FOR EFFECTIVE ECONOMIC CO-OPERATION, ACCORD TO ENTERPRISES SUBJECT TO FOREIGN CONTROL WHICH ARE LEGALLY OPERATING ON ITS TERRITORY, THE SAME TREATMENT THE MEMBER ACCORDS TO ENTERPRISES WHICH ARE ENTIRELY SUBJECT TO THE CONTROL OF ITS NATIONALS."

3. REF B (TWO PAGES) GIVES A SHORT DISCUSSION ON USE OF INVESTMENT INCENTIVES AND DISINCENTIVES BY COUNTRIES AND PROVIDES THAT ANY MEMBER COUNTRY MAY CALL FOR CONSULTATIONS CONCERNING THE INCENTIVES AND DISINCENTIVES USED BY OTHER COUNTRIES, WITH GOAL BEING TO REDUCE NEGATIVE EFFECTS ("SUBSTANTIAL DAMAGE TO ECONOMY OR INDUSTRIAL PRODUCTION") TO A MINIMUM. IT ALSO PROVIDES FOR GENERAL CONSULTATIONS TO BE HELD PERIODICALLY ON EXISTING MEASURES IN MEMBER COUNTRIES IN ORDER TO ASSESS THEIR IMPACT ON INVESTMENT AND TRADE. THE SCOPE OF THESE GENERAL CONSULTATIONS, AS YET UNDEFINED, WOULD HAVE TO BE AGREED UPON IN ADVANCE. THE GUIDELINE BASICALLY STATES THAT COUNTRIES SHALL TAKE THE INTERNATIONAL EFFECTS OF INVESTMENT INCENTIVES AND DISINCENTIVES INTO CONSIDERATION WITH VIEW TO AVOIDING HARMFUL EFFECTS THEY MAY HAVE ON OTHER COUNTRIES, AND SHALL FAVOR MEASURES WHICH REDUCE HARMFUL EFFECTS TO A MINIMUM. IN ADDITION, COUNTRIES SHALL ENDEAVOR TO MAKE SUCH MEASURES AS TRANSPARENT AS POSSIBLE.

4. REF C EXAMINES EXISTING DEFINITIONS OF "MULTINATIONAL ENTERPRISE" AT SOME LENGTH AND CONCLUDES THAT A DEFINITION

UNCLASSIFIED

PAGE 03 STATE 087578

TION DERIVED FROM THE CONCEPT OF DIRECT FOREIGN INVESTMENT WOULD BE MOST USEFUL FOR OECD PURPOSES AND WOULD BE USED FOR ALL OECD WORK ON MNC QUESTIONS WITH CUTOFF POINTS BASED ON SIZE OF FIRM AS APPROPRIATE FOR EACH PROJECT. REF C POINTS OUT THAT CONSIDERATION OF PRACTICAL DEFINITION SHOULD NOTE NEED TO COVER ALL FIRMS TO WHICH POSSIBLE GUIDELINES AND STANDARDS OF BEHAVIOR WOULD APPLY, AND SHOULD CONSIDER IMPLICATION OF FACT THAT

NATIONAL LEGISLATION APPLIES TO LEGAL ENTITIES, AND THAT  
LEGAL UNIT AND STATISTICAL UNIT MAY NOT NECESSARILY  
COINCIDE IN MANY COUNTRIES. BROWN UNQUOTE RUSH

UNCLASSIFIED

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** INVESTMENT LAW, AGREEMENT DRAFT, INVESTMENTS, CAPITAL FLOWS, MEETINGS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 29 APR 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 JAN 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974STATE087578  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** EUR/RPE:MLEVINE  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D740102-0719  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1974/newtext/t1974045/aaaaadug.tel  
**Line Count:** 118  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN EUR  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
**Reference:** (A) CES/74.38, PRINCIPLE OF NATIONAL  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** elyme  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 04 SEP 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <04 SEP 2002 by BryanSD>; APPROVED <02 JAN 2003 by elyme>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** XCSS EXPERTS MEETING APRIL 29-30  
**TAGS:** EFIN, OECD, XCSS  
**To:** OECD POSTS  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005